

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 12-N-16415-LMA
	)	
KAMRAN YUSUF MALIK,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
Member No. 247885,	)	ENROLLMENT
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Kamran Yusuf Malik (respondent) was charged with willfully violating California Rules of Court, rule 9.20, by willfully disobeying or violating a court order requiring compliance with California Rules of Court, rule 9.20. He failed to participate either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on August 7, 2006, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On December 18, 2012, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, to his membership records address. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned undelivered.

Respondent had actual notice of this proceeding. On January 15, 2013, respondent confirmed, to the assigned deputy trial counsel, receipt of the NDC served by the State Bar by email on respondent's membership records private email address.<sup>3</sup>

Nevertheless, respondent failed to file a response to the NDC. On January 18, 2013, the State Bar properly served a motion for entry of default on respondent by certified mail, return receipt requested, to his membership records address.<sup>4</sup> The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to

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<sup>3</sup> Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

<sup>4</sup> The motion was also served by certified mail, return receipt requested, on respondent at his home address which he provided to the assigned deputy trial counsel on January 15, 2013. The return receipt for the motion served on respondent at his home address was returned to the State Bar indicating that it was delivered on January 23, 2013, and received by "Malik.[unintelligible]." The NDC was also served on respondent by email to his membership records private email address.

respondent. (Rule 5.80.) The motion also notified respondent that if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on February 5, 2013. The order entering the default was properly served on respondent at his membership records address by certified mail, return receipt requested, and a courtesy copy was served on respondent at his home address. The order served on respondent at his membership records address was returned to the State Bar Court by the U.S. Postal Service as unclaimed. The court also ordered respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and he has remained inactively enrolled since that time.

Respondent also did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On August 14, 2013, the State Bar properly served the petition for disbarment on respondent by certified mail, return receipt requested, to his membership records address.<sup>5</sup> As required by rule 5.85(A), the State Bar reported in the petition that (1) respondent has not contacted the State Bar since February 5, 2013, the date the order entering his default was filed and served; (2) there is one other disciplinary proceeding and one State Bar investigation matter pending against respondent; (3) respondent has a prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on September 10, 2013.

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<sup>5</sup> The petition for disbarment was filed on August 15, 2013. The disbarment petition was also served on respondent by first-class mail to respondent's home address and via email to his private membership records email address.

Respondent has one prior record of discipline. Pursuant to a Supreme Court order filed on May 22, 2012, respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for two years subject to conditions, including that he be suspended for the first 90 days of probation. Respondent stipulated in the prior disciplinary matter to culpability and discipline for professional misconduct in three separate client matters involving the practice of law in three states in violation of the regulations of the professions in those states, entering into an agreement for, charging or collecting an illegal fee, and failing to refund unearned fees.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

### **Case Number 12-N-16415 (Violation of Rule 9.20)**

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys) by failing to file a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby failing to timely comply with the provisions of the May 22, 2012, Supreme Court order requiring compliance with California Rules of Court, rule 9.20.

### **Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on respondent under rule 5.25;

(2) respondent had actual notice of this proceeding, as he confirmed to the assigned deputy trial counsel receipt of the NDC via email;

(3) the default was properly entered under rule 5.80; and

(4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite actual notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that respondent Kamran Yusuf Malik be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

### **California Rules of Court, Rule 9.20**

The court also recommends that respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

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## **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Kamran Yusuf Malik, State Bar number 247885, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: November \_\_\_\_, 2013

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LUCY ARMENDARIZ  
Judge of the State Bar Court